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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,333	12/12/2001	Thomas R. Tudor	SEA-147-D	4153

7590

04/29/2002

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 04/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/023,333

Applicant(s)
Tudor et al.

Examiner
Robert M. Fetsuga

Art Unit
3751



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 12, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Dec 12, 2001 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

Art Unit: 3751

1. The status of the parent application(s) has been updated.
2. The drawings are objected to because reference numeral "16c" (pg. 6 ln. 24) is missing therefrom. Correction is required.

Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must consist of two parts:

- a) A separate letter to the Draftsman in accordance with MPEP § 608.02(r); and
- b) A print or pen-and-ink sketch showing changes in *red ink* in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

3. The disclosure is objected to because of the following informalities: page 5, lines 6 and 12, "24b" denotes different elements; and page 6, line 16, "18c of the mixer" apparently should be --20c of the air--, line 17, "16b" apparently should be --16--, and line 19, "24c" apparently should be --24d--.

Appropriate correction is required.

Art Unit: 3751

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o). Correction of the following is required: Proper antecedent basis for the "tubular nozzle member" (having the recited structure) set forth in claim 1, "hollow tubular housing" set forth in claims 4, 9 and 14, "non-linear axially extending inner surface" set forth in claim 4, subject matter set forth in claims 5 and 10, "trapping the nozzle insert" language set forth in claims 6, 11 and 18, "beveled-angular cut" set forth in claims 8, 13 and 20, and "angular surface" set forth in claim 16, could not be found in the specification.

5. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section

Art Unit: 3751

371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Miller.

The Miller reference discloses an apparatus comprising: a tube member 2 including a nozzle-retaining surface 44; a nozzle insert 40 including a non-linear passage 41,42, an annular flange 43, and a beveled-angular cut (Fig. 4); and a static mixer 48, as claimed.

8. Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Brennan et al. and Keller et al. '150.

The Brennan et al. (Brennan) reference discloses an apparatus comprising: a tube member 16 including a stepped reduction conical nozzle tip portion 18; and dispensing means 12. Therefore, Brennan teaches all claimed elements except for the provision of plural stepped reductions.

Art Unit: 3751

Although the tip portion of the Brennan tube member does not include plural stepped reductions, as claimed, attention is directed to the Keller et al. '150 (Keller) reference which discloses an analogous tube member which further includes a tip portion 18 having plural stepped reductions. Therefore, in consideration of Keller, it would have been obvious to one of ordinary skill in the art to associate plural stepped reductions with the Brennan tube member in order to facilitate length adjustment.

9. Claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brennan and Keller as applied to claim 1 above, and further in view of Miller.

Re claim 2, although the dispensing means (tip insert) of the Brennan tube member does not extend beyond the tip portion, as claimed, attention is directed to the Miller reference which discloses an analogous tube member 2 which further includes a tip insert 40 extending beyond a tip portion 37. Therefore, in consideration of Miller, it would have been obvious to one of ordinary skill in the art to further extend the Brennan tip insert in order to facilitate material dispensing.

Re claim 3, although the tip insert of the Brennan tube member does not include an angular cut surface, as claimed, attention is again directed to Miller which discloses the tip

Art Unit: 3751

insert 40 as having an angular cut surface (Fig. 4). Therefore, in further consideration of Miller, it would have been obvious to one of ordinary skill in the art to associate an angular cut surface with the Brennan tip insert in order to facilitate material dispensing.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Simpson reference discloses an apparatus having features in common with the instant invention.

11. Applicant is referred to MPEP 714.02 in responding to this Office action.

12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number (703) 308-1506.



ROBERT M. FETSUGA
PRIMARY EXAMINER
ART UNIT 3751

rmf
April 25, 2002